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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

JOSE DIAZ,

Plaintiff and Respondent,

v.

GEORGE W. SHACKELFORD,

Defendant and Appellant.

B212349

(Los Angeles County  
Super. Ct. No. BC369770)

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Soussan G. Bruguera, Judge. Reversed and remanded.

Matthew C. Long for Defendant and Appellant.

Law Offices of Peter Beck and Peter Beck for Plaintiff and Respondent.

Defendant and appellant George W. Shackelford (defendant) challenges a trial court judgment awarding damages to plaintiff and respondent Jose Diaz (plaintiff) arising from a labor claim. He contends that (1) the trial court judgment violates the doctrine of res judicata, (2) the trial court erroneously admitted certain evidence, and (3) the trial court failed to prepare a proper statement of decision.

We find that the trial court's statement of decision contravened Code of Civil Procedure sections 632 and 634. Accordingly, we reverse the judgment and remand for the preparation of a statement of decision that addresses defendant's affirmative defense of res judicata and jurisdiction based upon action of the Labor Commissioner.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff was employed as a Laundromat janitor for defendant from January 6, 2002, to April 18, 2006. Because he believed that he worked approximately 59 hours per week without receiving any overtime pay, plaintiff filed an initial claim form with the State Labor Commissioner on April 21, 2006. Thereafter, plaintiff filed an amended complaint with the Labor Commissioner on September 22, 2006. The amended complaint failed to include claims for overtime pay; it only included claims of missed meal and rest breaks and split shift premiums.

Defendant answered the amended complaint, denying plaintiff's allegations that he was denied meal and/or rest periods. Defendant also disputed plaintiff's entitlement to a split shift premium.

Following a hearing, the Labor Commissioner rendered her decision. Preliminarily, she noted that plaintiff's claim raised allegations of missed lunch breaks, rest period violations, and split shift premiums. After reviewing the evidence, the Labor Commissioner only awarded plaintiff \$423 in split shift premiums.

On April 19, 2007, plaintiff filed the instant action for unpaid overtime against defendant. Defendant answered, asserting as an affirmative defense "that by accepting the benefits of the Labor Commissioner's award[,] the matter is now final and is res judicata."

Defendant filed a motion for summary judgment, arguing that “[p]laintiff accepted the benefit of the Commissioner’s decision. He elected to receive the funds awarded by the Commissioner and not to have a trial on all issues. Again, the decision that it is believed that plaintiff will rely on i.e., *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094] is a further proceeding after the Commissioner’s decision by a timely filed appeal and a trial de novo. [¶] Plaintiff will be unable to show a single case that supports the [principle] that an employee can maintain dual venues to address his grievance after proceeding in one to its conclusion. To follow what is believed to be plaintiff’s reasoning, plaintiff could have filed a civil action and after that has concluded, then file an administrative action. [¶] Plaintiff has . . . to file an appeal and therefore, as a matter of law, the court lacks the jurisdiction to entertain the present action.”

Plaintiff apparently filed an opposition, and we assume that the trial court denied defendant’s motion because the case proceeded to trial.

During trial, one of the contested issues was whether plaintiff could proceed with his claim for damages in a civil action after having pursued a wage claim before the Labor Commissioner.

Following the bench trial, the trial court ruled in favor of plaintiff, awarding him unpaid overtime pay in the amount of \$20,124.42 and a \$4,000 penalty for failing to provide itemized records for each pay period, as required by Labor Code sections 1194, 218.6, and 226, subdivision (e). The trial court’s statement of decision did not address defendant’s affirmative defense “that by accepting the benefits of the Labor Commissioner’s award[,] the matter is now final and is res judicata.” Defendant objected to the statement of decision for failing to make a “finding of fact or conclusion of law regarding the issue of res judicata in this matter arising from the Labor Commissioner hearing.” Defendant’s objections were overruled.

Judgment was entered, and defendant’s timely appeal ensued.

## DISCUSSION

In his opening brief, defendant argues that the trial court's statement of decision failed to address major issues, namely defendant's affirmative defenses of the action of the Labor Commissioner and jurisdiction.<sup>1</sup> Specifically, he argues: "The statement of decision did not address each major issue or the affirmative defenses contained in the answer to the complaint." During oral argument, defendant's counsel sidestepped questions about this issue, urging us to resolve the substantive question of whether plaintiff's claim in this action is barred by the doctrine of res judicata. We conclude that the statement of decision is defective, and that this error warrants reversal. Not until this defect is cured can we consider the merits of defendant's substantive arguments.

Code of Civil Procedure section 632 provides, in relevant part: "The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision . . . . The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision." (Code Civ. Proc., § 632.) The function of a statement of decision is to "inform[] the parties and ultimately the appellate courts of the factual and legal basis for the trial court's decision." (*Miramar Hotel Corp. v. Frank B. Hall & Co.* (1985) 163 Cal.App.3d 1126, 1128.) In other words, the statement of decision provides the trial court's reasoning in disputed issues and is the "touchstone" for appellate review in determining whether the trial court's decision is supported by the facts and law. (*Slavin v. Borinstein* (1994) 25 Cal.App.4th 713, 718; *Miramar Hotel Corp. v. Frank B. Hall & Co.*, *supra*, at p. 1129.)

The statement of decision must provide an explanation of the factual and legal bases for the court's decision regarding the principal controverted issues at trial as are listed on the request. (*Hellman v. La Cumbre Golf & Country Club* (1992) 6 Cal.App.4th 1224, 1230.) When the trial court fails to make findings on a material issue that would

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<sup>1</sup> Plaintiff did not respond to this argument in his respondent's brief.

fairly disclose the trial court's determination, so long as the aggrieved party objects, reversible error results. (*Ibid.*; see also *In re Marriage of Hardin* (1995) 38 Cal.App.4th 448, 453 [where the statement of decision fails to sufficiently state the factual and legal bases for the trial court's decision as to each of the principal controverted issues at trial, the judgment must be reversed]; *In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1138.)

Defendant timely objected to the trial court's proposed statement of decision. (Code Civ. Proc., § 634.) "When a statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court either prior to entry of judgment or in conjunction with a motion under [Code of Civil Procedure] Section 657 or 663, it shall not be inferred on appeal or upon a motion under [Code of Civil Procedure] Section 657 or 663 that the trial court decided in favor of the prevailing party as to those facts or on that issue." (Code Civ. Proc., § 634.) The trial court is not required to respond point by point to issues posed in an objection to the statement of decision. Rather, "[t]he court's statement of decision is sufficient if it fairly discloses the court's determination as to the ultimate facts and material issues in the case." (*Golden Eagle Ins. Co. v. Foremost Ins. Co.* (1993) 20 Cal.App.4th 1372, 1380.)

Here, the trial court's statement of decision is inadequate. It fails to address a key issue raised throughout the underlying litigation, namely the question of whether plaintiff's pursuit of a claim with the Labor Commissioner bars his claim in a civil action. Defendant raised this issue as an affirmative defense; defendant brought a motion for summary judgment on this basis; defendant raised the issue in his trial brief ; at least one witness testified about the informal hearing process before the Labor Commissioner, and the witness responded to questions by counsel and the trial court as to whether the issue of overtime pay was resolved; and defendant argued this defense in his closing remarks to the trial court. Yet, the statement of decision is silent. Defendant properly objected pursuant to Code of Civil Procedure section 634, yet the trial court still did not render findings or conclusions on this "principal controverted issue[]." (Code Civ. Proc., § 632.)

Instead, in one sentence, the trial court overruled all objections. This was error, and warrants reversal.

In light of this conclusion, all remaining issues<sup>2</sup> raised by defendant are moot.

### **DISPOSITION**

The judgment is reversed, and the matter is remanded to the trial court for the issuance of a statement of decision on the issues of res judicata and whether plaintiff is barred from pursuing a claim in a civil action for unpaid overtime. Defendant is entitled to costs on appeal.

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\_\_\_\_\_, J.  
ASHMANN-GERST

We concur:

\_\_\_\_\_, P. J.  
BOREN

\_\_\_\_\_, J.  
CHAVEZ

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<sup>2</sup> These issues include whether plaintiff was precluded from seeking relief for his labor claims in a civil action because he sought relief via an administrative hearing; and whether the trial court erred in admitting certain evidence.